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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,476

03/11/2005

Erwin Werner

ZAHFRI P719US

3600

20210 7590 04/08/2008
DAVIS BUJOLD & Daniels, P.L.L.C.
112 PLEASANT STREET
CONCORD, NH 03301

EXAMINER

SY, MARIANO ONG

ART UNIT

PAPER NUMBER

3683

MAIL DATE

DELIVERY MODE

04/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,476	Applicant(s) WERNER, ERWIN	
	Examiner MARIANO SY	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 8 and 13 is/are allowed.
- 6) ☒ Claim(s) 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on December 21, 2007 has been received.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 9-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's claim 9 recited the limitation "to provide a warning to a driver of the vehicle that a parking brake is not set" in lines 8-9 which is not disclosed in the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by

Mikami et al. (US 6,039,673), Tsukamoto et al. (US 5,692,990), or Thomas (US 6,411,881).

Mikami et al. disclosed a method of preventing a stationary vehicle from unintentionally rolling comprising the steps of: creating a holding mode by activation of a brake pedal of a brake; releasing the holding mode upon sufficient displacement of a clutch which is a determinant for actual takeover torque of the clutch; and upon deactivation of a brake pedal and in an event that the clutch does not provide the takeover torque and the brake pedal is not reactivated, deactivating the holding mode, after a timing delay, for a predetermined time period, see figure 1, col. 1, lines 65-67 and col. 2, lines 1-21.

Tsukamoto et al. disclosed a method of preventing a stationary vehicle from unintentionally rolling comprising the steps of: creating a holding mode by activation of a brake pedal of a brake; releasing the holding mode upon sufficient displacement of a clutch which is a determinant for actual takeover torque of the clutch; and upon deactivation of a brake pedal and in an event that the clutch does not provide the takeover torque and the brake pedal is not reactivated, deactivating the holding mode, after a timing delay, for a predetermined time period, see figure 1 and abstract.

Thomas disclosed a method of preventing a stationary vehicle from unintentionally rolling comprising the steps of: creating a holding mode by activation of a brake pedal of a brake; releasing the holding mode upon sufficient displacement of a clutch which is a determinant for actual takeover torque of the clutch; and upon deactivation of a brake pedal and in an event that the clutch does not provide the

takeover torque and the brake pedal is not reactivated, deactivating the holding mode, after a timing delay, for a predetermined time period, see figures 1-7, col. 5, lines 52-67, col. 6, lines 1-16 and 53-65.

6. Claims 7, 8, and 13 are allowed.

Response to Arguments

7. Applicant's arguments filed on December 21, 2007 have been fully considered but they are not persuasive.

Examiner retains the rejection of Claim 9 under 35 U.S.C. 112, first paragraph. Nowhere in paragraph [012] of Applicant's specification discloses "to provide a warning to a driver of the vehicle that a parking brake is not set" which was amended dated May 25, 2007.

Examiner maintains Mikami et al. '673, Tsukamoto et al. '990, or Thomas '881 still read on claim 9.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 571-272-7126. The examiner can normally be reached on Mon.-Fri. from 8:30 A.M. to 2:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi, can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Sy

March 24, 2008

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
Unit 3683